

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

<p>HARVINDER S. SANDHU, M.D. and KYPHON INC.,</p> <p>Plaintiffs,</p> <p>v.</p> <p>MEDTRONIC SOFAMOR DANEK, INC., MEDTRONIC SOFAMOR DANEK USA, INC., and SDGI HOLDING, INC.,</p> <p>Defendants.</p>	<p>C.A. No. 06-mc-178</p> <p>C.A. No. 05-2863-JPM-dkv (Western District of Tennessee)</p>
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**WITHDRAWAL OF PLAINTIFFS' AND NON-PARTY
DR. MICHAEL R. MARKS' COMBINED MOTION AND SUPPORTING
MEMORANDUM OF LAW FOR A PROTECTIVE ORDER
AND TO QUASH DEFENDANTS' SUBPOENA TO
DR. MICHAEL MARKS PURSUANT TO FED. R. CIV. P. 26(c) AND 45(c)**

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DATED: October 2, 2006

Defendants have provided written confirmation that they are withdrawing their September 19, 2006, subpoena to Dr. Michael Marks. Plaintiffs and Dr. Marks therefore withdraw their combined motion seeking to quash the subpoena and for issuance of a protective order.

Dated: October 2, 2006

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By: /s/ Thomas L. Halkowski

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of October 2006, I electronically filed the attached **WITHDRAWAL OF PLAINTIFFS' AND NON-PARTY DR. MICHAEL R. MARKS' COMBINED MOTION AND SUPPORTING MEMORANDUM OF LAW FOR A PROTECTIVE ORDER AND TO QUASH DEFENDANTS' SUBPOENA TO DR. MICHAEL MARKS PURSUANT TO FED. R. CIV. P. 26(c) AND 45(c)** with the Clerk of Court using CM/ECF. A copy of the document was served on the following attorneys via e-mail and first class mail:

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